amendments that have been brought by the Government to the existing Act. The only object with which we have brought these amendments is to make the co-operative societies work better and be of increased service every day.

Mr. SPEAKER.—The question is :

"That the Mysore Co-operative Societies (Amendment) Bill, 1955, as passed by the Legislative Council and as amended, be passed."

The motion was adopted.

MOTOR VEHICLES (MYSORE AMENDMENT) BILL, 1955.

Motion to consider.

*Sri H. SIDDAVEERAPPA (Minister for Home and Industries).—Sir. I beg to move :

"That the Motor Vehicles (Mysore Amendment) Bill, 1955, be taken into consideration."

This is a Bill praying for the amendment of two sections, namely, sections 62 and 64 of the Motor Vehicles Act. During the course of the working of this Act, while an appeal was preferred before the Government, certain legal issues were raised, namely, whether the Government or the S.T.A. had the power of issuing temporary permits or whether there should be a second appeal under the Indian Motor Vehicles Act. As the Act now stands, under section 64, there is a power of appeal to the S.T.A. on the order passed by any R.T.A. and on the order so passed by the S.T.A. there is no power of appeal, no power of revision according to the contention of some. This question was examined in the Law section. They advised that it would be better that in order to set at rest any doubt that might arise in the minds of some people. these two sections might be suitably amended. The S.T.A. also has recommended that the amendment is necessary. The President's permission also has been obtained and these amendments have been put in.

With regard to section 62, the amendment is to the effect that a temporary permit may be granted during the pendency of an appeal and before the appeal is disposed of by any appellate authority and in section 64, the amendment is to the effect that whoever is aggrieved by a decision of the S.T.A. may prefer an appeal to Government. There is no direct appeal from the decision of the R.T.A to the Government even as the tenor of the Act now stands-section 64. From the decision of the R.T.A. an appeal lies only to the S.T.A. and whoever is aggrieved by an order of the S.T.A. may come before the Government by way of appeal. These provisions are to be found elsewhere in Madras and Bombay. This amending Bill is brought forward with a view to clear the doubts in the minds of some and with a view to set at rest any points of controversy that may arise. This is a wholesome measure which is put in by the experience of the working of this Act for the last two years in the State and I request the House to accord their approval to this amendment Bill.

Mr. SPEAKER.—Motion moved :

"That the Motor Vehicles (Mysore Amendment) Bill, 1955, be taken into consideration."

*Sri A. BHEEMAPPA NAIK (Molakalmuru).—I do not know why the Home Minister is anxious to get more powers, even though he has powers only to grant temporary permits. To grant temporary permits he has the right under certain circumstances, for fairs, jatras or emergency circumstances under such circumstances and where it is inevitable. When a person applies for a licence and even before the consideration or final grant, if he approaches Government the Minister wants power to grant him the licence temporarily. Is that correct, I want to know ? Supposing before a young man becomes a graduate, to appoint him as an Amildar you give him a Degree temporarily because he has appealed and if he passes, regularise it, is that correct ? *(Interruption from Sri K. Pattabhiraman.)* That

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is how this logic is inferred, though my friend Sri K. Pattabhiraman would have argued in a different way with his own logic. He has his own logic but I have a general logic. Whatever it is, this special power of granting licence for a line on application or for granting licence when a line is refused by the R.T.A. or S.T.A.—that is not correct. If he had no power under any circumstances, that would have been a different thing. In emergency cases, in cases where there are Fairs, Jatras or other events he can grant permit temporarily for a period, but this will not amount to it. It will be a permanent grant of licence and later on regularising it. This perhaps may give room for nepotism or anything—I do not want to use stronger words. It is not correct anyway. (*Sri J. Mohamed Imam.—Favouritism*) (*Interruption.*) But anyway this was tried in Madras; this amendment was brought in Madras and later on, they felt that it would be anomalous to have such power even in cases where an application for grant of line is made. Under such circumstances, to give powers to Government to grant licences would be very incorrect. I would not agree for such a provision being made or such a power being vested with anybody. Even in democratic Government it should not be brought. The Minister, when he moved the Bill did not tell us how there were difficulties in his way. Now there are instances. When a village panchayet road is formed, whether there is sufficient fund or not, whether that road is motorable or not, the roads are being spoiled and so many licences, disirable and undesirable, are being granted. Why should we give that power to the Government, why should it not be investigated properly? A man who has held licence for ages, if he applies, is there such an urgency for that person to get, pending disposal of that application, a temporary permit? It is not correct. Temporary permits are issued in different circumstances. You want to go to some jatra, some marriage, some function. There is a circumstance which necessitates a bus line to be opened for a definite period of 8 or 10 days. That is a case of emergency. But here definitely you say when an application is made for grant of a fresh route, you want temporary powers, pending the final disposal of such an application. For what purpose? All these years what were the difficulties? In the Statement of Objects and Reasons, the Minister should have stated in detail why he wanted this power. Therefore, I definitely say that this should not be given and I am definitely of opinion that it would not be safe for us.

Sri K. PATTABHIRAMAN (Kolar).—Mr. Speaker, Sir, I would like to say a word or two on only one aspect of the matter and that is, what my Hon'ble friend from Molakalmuru has raised. It looks to me that the Home Minister has brought forward this amendment Bill mainly with a view to remove doubts that have arisen by virtue of a number of decisions of the several High Courts in India. The question will be like this. The term 'temporary permits' has been literally and technically described by the several High Courts in a particular manner, in the sense of saying that a temporary permit is a permit for a temporary purpose and period. In other words, what exactly has been envisaged by the Hon'ble Member from Molakalmuru, namely, a fair, a jatra or some function even taking place in a family, some of these special contingencies which could generally be foreseen, which nevertheless require some amount of adjustment—they are temporary purposes and a temporary permit will always be very valid and quite in order to be given. In fact, even as the rule stands, it has been generally said that the District Magistrate or the Deputy Commissioner or the R.T.A. concerned can give a temporary permit when such a temporary occasion arises for a purpose and for a period of a week or so; but the difficulty that arises is, if the result of giving temporary permit is to add to the number of bus permits already in the line, to add to the general services, the view taken by the High Courts is that that will not be competent as the law now stands. In other words, if you are going to give a

temporay permit, whatever may be the need or justification for granting the temporary permit, the overall considerations which must necessarily and readily weigh in granting the permit, unfortunately, the High Court says that, as the temporary permit is only a permit for a special purpose, for a temporary purpose, for a week or so, if in the result, in consequence of a temporary permit you are adding to the general services, you have no right to issue such permits under the law—either the S.T.A. or the Government or the R.T.A.; some Court says you have no right under the law to give a temporary permit; and that you can give only a permanent permit. Suppose there is a case where there is a real need for granting a temporary permit. Take an instance between Bhadravathi and Lakkavalli. Lakkavalli is a growing centre. A number of people have to be served, the labour population of Lakkavalli area have to be served. Therefore, you really feel that certain services will have to be opened between Bhadravathi and Lakkavalli or Shimoga and Lakkavalli. The need is there. If the High Court order is to be given effect to, you cannot give a temporary permit even though the need is very great; you can only give a permanent permit. The difficulty will be in regard to the granting of a permanent permit. The procedure will have to be followed and the procedure necessarily entails a length of time. They may take 3 months, 4 months or 6 months. It is to be notified in the Gazette; applications have to be received; objections, if any, have to be raised; all the procedure has to be gone through and that will necessarily entail sufficiently long time and you will have to wait for six months. Here is a case where the Government or the authorities concerned are convinced that there is imperative need for granting a permit. There is the High Court's direction that if there is that need nevertheless you can only give a permanent permit. 'Permanent permit' necessarily means a length of time. The result will be, there will be vacuum created. You have the mind, you have the conviction that it is to be given, but still the overall considerations that will arise as a result of the High Court decision will be, you have no right. Therefore, I feel that the fears expressed by my friend Sri Bheemappa Naik may be allayed to this extent. I am sure this will not be used, nor is it the intention of the Government or anybody to use this power capriciously. If the Government is really interested and convinced in a particular case, there is need to give temporary permits notwithstanding the fact that ordinarily the procedure would entail a length of time which in the circumstances would not be justified and reasonable, it is only in such extraordinary cases in order to give effect to the real conviction that they have in the matter, they last this power, It is only to meet a contingency of that kind that they have now taken power to give a temporary permit. I therefore appeal to the House to accord approval to the Hon'ble Minister because it is necessary. My friend was referring to Madras example. In fact, the Madras example has added to the difficulty. I request the Hon'ble Member to mark the word contained there, namely 'temporary permit' which is in contra-distinction to the word 'permanent'.

Sri J. MOHAMED IMAM (Jagalur).—It is not temporary permit; it is a new permit given for a temporary period, for a month or two.

Sri K. PATTABHIRAMAN.—I am glad the Hon'ble Leader of the Opposition has raised the question. The High Court of Rajastan and other High Courts have taken the view that it should not be the object as the law now stands to use 'temporary permit' as a device in order to add to the services and go on endlessly like that. Therefore, they say that temporary permit will be for a particular expediency and occasion. That occasion cannot be elongated. For example, if you give a temporary permit to Sravanabelagola Jathra, Sravanabelagola Jathra must come to an end on a particular day. The time, occasion and event will be fixed in a temporary permit. So, there is no question of giving a temporary permit beyond that period. Similarly

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if you take a temporary permit for a marriage occasion, it may be for 6 to 8 days; as soon as the marriage is celebrated, the occasion exhausts itself and the temporary permit exhausts itself. The object of a temporary permit should be merely to meet a contingency or accidental and unforeseen circumstances, it should not be to add to the regular services. But the event must be an important event which takes place over a period, say, of two months and the permit must be given for a temporary period of two months only and nothing more or nothing less. I gave the House the example of a case where in order to meet the growing needs of a locality like Lakkavalli you want to add to the services in order to meet the traffic for which otherwise the usual procedure had to be followed. The Government think that they should be clothed with sufficient authority to meet such a particular case. If I know the mind of the Hon'ble Minister aright, the idea is, there have been doubts expressed in some quarters by the High Court Judges who are entitled to a great deal of respect at the hands of any Assembly ; though it might not be a local High Court which gave its verdict on this point, anyway, by way of abundant caution and wisdom the Government have taken this step in order to remove such a lacuna in the law which might be pointed out later on. I assure the Hon'ble Member from Molakalmuru and also the Leader of the Opposition that this Bill, in my opinion, is a very innocuous measure and it is absolutely necessary and I think that the House will accord unanimous approval to this wholesome measure.

Sri A. BHEEMAPPA NAIK.—I want to know whether proper words to suit the circumstances which you just mentioned could not be put here in place of this omnibus clause according to which you can grant temporary permit to anybody anywhere. The circumstances that you mentioned, that you assured on behalf of the Minister, are a different thing. It is a question of interpretation. So, you must put proper words to suit the occasion. Then we have no objection. You may say that temporary permits may be given for jatras or to meet any emergency or pending the decision of a finalisation in an emergency where there is a growing need for such buses. There is no such thing here like ' pending the grant of a permit to an applicant '. This is an omnibus clause. If my friend wanted temporary applications for such circumstances, we do welcome such a thing, but please put it in proper language. Between Bhadravati and Lakkavalli, Tunga Anecut is being built and heavy traffic is envisaged and there are now one or two bus lines and the High Court decisions are to the effect that where there are lines, you cannot grant temporary permits. So, under such circumstances, it may be necessary that, before granting permanent permits, you may have to allow them to meet the emergency and need by granting certain temporary permits. I have no objection to that. But put it in such a language as to bring about only such circumstances and not other things. If my friend were to read through the clause, he will surely be convinced that it embraces all kinds of grants and permits.

Sri H. SIDDAVEERAPPA.—All kinds of temporary things which finalise themselves into permanency.

Sri H. M. CHANNABASAPPA (Periyapatna).—I would like to know from the Hon'ble Minister whether sub-clause (c) of-62 will not meet the needs of a contingency of the kind visualised by the Hon'ble Member. Sub-clause (c) says :

> "(c) to meet a particular temporary need, and may attach to any such permit any condition it thinks fit."

To meet a need of the kind visualised by the Hon'ble Member, I think sub-clause (c) is sufficiently wide enough to clothe him with sufficient power. I would like to know why it would not be able to meet this contingency.

Sri K. PATTABHIRAMAN.- I am glad both my friends have met us halfway. My friend Sri Bheemappa Naik who started straightaway with opposition has now come forward with this suggestion because after all clash of

intellects must always result in that. Now, the position is this : So far as I can see I would rather think the fears that you have will be met by the language as it is now. The position is like this. But here what Clause 2 (d) says is :

> " (d) pending the decision on an application for the grant or renewal of a stage carriage permit or a public carrier's permit or pending the decision of an appellate authority under Section 64 ".

The language is very clear. It is not a case of arbitrarily giving away temporary permit ; in fact, you should be happy and you should congratulate the Government for bringing the language into that form as it has now been done. Supposing the language was not like that ; then the contingency that I felt could not be met because arbitrarily the authority concerned could have given a temporary permit to anybody. What they say is, in the case of granting a temporary permit in the contingency that I have contemplated, it should be a subject matter of an application and only in such cases pending decision, temporary permits should be given.

Sri A. BHEEMAPPA NAIK.—All these pending applications could be a hundred and one in every line. You said intelligence has dawned on us. I want you to reconsider whether you can intelligently interpret in that way that a certain contingency is alone contemplated where all applications come under that. That is what I want you to look into and interpret.

Sri K. PATTABHIRAMAN.—I am afraid I have not made myself clear. What I was trying to make out is this. The language that is now employed in the proposed amendment justifies what I was stating for the information of my Hon'ble friend. What I said was : It is not in every case where a temporary permit is asked for on a slip of paper that the Minister, whoever it is, responsible or privileged to accord such permission, grants such a permit. It says only in one case can a temporary permit be granted and that it should be a subject matter of an enquiry and that is also a subject matter which is going to be disposed of. Therefore, it is correlated to the application before it ; it is only in that extreme case that a temporary permit could be granted. Therefore, I said the language employed was very helpful. Otherwise, if the language had been different, what could have been done would be that whenever a Minister felt like granting a temporary permit he could do so arbitrarily, capriciously or as has been suggested on different occasions, he could have given temporary permits to anybody. On the other hand, now they can exercise the power to grant a temporary permit only in cases where the matter is before an Appellate authority. I know my friend is a very able lawyer. We know what happens when we ask for a temporary permit. We ask for semething like a temporary injunction where we have asked for a permanent injunction. In that case a *prima facie* case is made out for a temporary injunction. In the nature of things, the court is seized of the question of injunction. It is only in such correlated situation that we get preliminary rulings of injunction. So, I appeal to my friend from Molakalmuru to appreciate the position. I should rather think that the Hon'ble Minister has placed restraint upon himself. He could have easily said that it is open to the authorities concerned to grant temporary permits. It is not that it shall be given to any one who asks for it. It should be asked in a particular form ; when that form is before me and if I am satisfied of using that discretion, I shall do it. That seems to be his thought.

Sri R. CHENNIGARAMIAH (Koratagere-Madhugiri—Scheduled Castes).—If it is before the S.T.A., can the Government give a permit ?

Sri K. PATTABHIRAMAN.— It must be an appellate body. I ask my friend to appreciate one thing. Please mark the words ' pending before an appellate authority '. So far as the orginal body is concerned, this temporary permit which is a subject matter of dispute has been negatived. Then an appeal has been filed. I ask you to consider that. It is only in such cases where the original body has refused to grant

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permit, that may be a subject matter of appeal and when the appellate body is seized of such appeal, in such extraordinary cases, this will be done. So, mark the words 'pending the decision of the appellate body".

Sri H. M. CHANNABASAPPA.—The Hon'ble Member may please note the words "pending the decision on an application". It is not a case where appeal is pending. When an original application for grant of licence is made and when a decision on such application is pending, even in such cases temporary permit could be given.

Sri R. CHENNIGARAMIAH.—If there are four applicants, and if you grant temporary permit in favour of one applicant, is it not possible that others disagree? Let us make a distinction between the two authorities. There are two bodies at present. One is the Regional Transport Authority for granting a temporary permit and the other is the Appellate authority, that is, the State Transport Authority which also can issue temporary permit. What they say is, because there is some doubt expressed by several High Courts with regard to the grant of temporary permit during special emergencies, they have made their intention clear. They have not added anything more with regard to the Regional Transport Authority. I personally feel that the language employed in that section will meet the circumstances and we will be amplifying our intentions.

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Sri A. BHEEMAPPA NAIK.—Well, there is a contingency already existing. You are saying there will be an application. There is no application as envisaged between Bhadravati and Lakkavalli. Even there, he is empowered to give permit, that means on the application. It makes no difference. If I can file an application, I can go and get the permit. It is not the case of one line as Sri Chennigaramiah pointed out. Out of four persons who is to get the permit is the question. Here is a first rejection already. Somehow you go on appeal and you get preference over others. Filing of an application for permit during special circumstances is not a difficult task. If you file an application, you can argue the appeal. Without application nobody does it. It is not difficult to file an application at all. For lawyers filing of applications. is not difficult Pending the decision, we can go and ask for a temporary permit. That opportunity is also there. I want to know whether there is such an emergency as to put such clauses and phrases which would suit for a special emergency. Such contingency is already covered under clause (*c*) of section 62. Therefore there does not seem to be any need and the language employed is not correct to suit for special cases.

Mr. SPEAKER.—We are just in the midst of a very enlightened argument. Tomorrow we cannot get this opportnity.

Sri R. CHENNIGARAMIAH.—I would like to have one clarification. Supposing there are four applicants, and all the four applicants have got requisite qualifications to satisfy the conditions of the grant of a permit. In such instances, a temporary permit can only be granted in favour of one of the four. But all the four will be deserving, who is to be given preference first?

Sri J. MOHAMED IMAM.—All the four cannot have the same purpose, they will have different purposes.

Sri R. CHENNIGARAMIAH.—When you grant a temporary permit in favour of one, will it not indirectly affect others while taking a final decision?

Sri H. SIDDAVEERAPPA.—Sir, I believe, it would have been much better—perhaps I might have committed a mistake in not having explained the matter at an earlier stage. I thought the circumstances of the case did not warrant it. I do not want to inflict a very long speech at the fag end of the day. Now I feel I have to mention, with relevant references to the Indian Motor Vehicles Act as to what exactly is the provision that empowers any authority to grant a temporary permit. I refer to section 62; may it be noted that is the only section under the Indian Motor Vehicles

Act where any authority derives power for grant of a temporary permit. It reads as follows.—

"62. *Temporary permits.*—A Regional Transport Authority may at its discretion, and without following the procedure laid down in section 57, grant permit , to be effective for a limited period not in any case to exceed four months, to authorise the use of a transport vehicle temporarily—

(*a*) for the conveyance of passengers on special occasions such as to and from fairs and religious gatherings, or

(*b*) for the purpose of a seasonal business, or

(*c*) to meet a particular temporary need, and may attach to any such permit any condition it thinks fit."

This is all the clause. What is now proposed by this amending Bill is : " After clause (*c*) of section 62 of the Motor Vehicles Act, 1939, (hereinafter referred to as the principal Act), the following word and clause shall be inserted, namely :—

" or

(*d*) pending the decision on an application for the grant or renewal of a stage carriage permit or a public carrier's permit or pending the decision of an appellate authority under section 64."

Under section 64, the power of appeal is given under certain conditions as could be seen from the scheme as envisaged under the Indian Motor Vehicles Act. The regional power, *viz.*, the power which has the right to grant a permit, whether it is temporary or permanent, is the Regional Transport Authority provided its jurisdiction comes within its own district—local jurisdiction as it is called. If the carriage is to be operated within two districts or within the border of any other State, then the S.T.A. has certain regional powers, something like the High Court getting the power. The S.T.A. gets the regional power of the R.T.A. What happens in a case like that ? Sub-clause (d) says :

" pending the decision on an application for the grant or renewal of a stage carriage permit or a public carrier's permit or pending the decision of an appellate authority under section 64."

So far as Government is concerned, I would like to make the position very clear. The Government have no regional power as such either for the issue of a permanent permit or a temporary permit. Very elaborate procedure has been laid down under Chapter IV. We have thought of this amendment as a result of the experience we have now got. Some High Courts have given different interpretations on this point. It is, therefore, advisedly put in order to have a very clear understanding of the position of law. After all, what is the power that is sought to be taken ? The Government will not straightaway issue temporary permit. It would be only by way of an appeal. For instance, the S.T.A. will not issue any temporary permits under any circumstance. They are not issuing any temporary permits, whatever may be the purpose. Then, the matter comes to me by way of an appeal. I cannot shut my eyes to the circumstance and say that because the S.T.A. has not issued, I am also not going to do it. There may be very valid reasons for issuing the temporary permit. So, Government will interfere only when the matter comes before them by way of appeal and not otherwise. That temporary permit, if it is issued, will have to be valued only pending the decision of the appellate authority ; it may be for one month or two months. This question came up as a result of practical experience. I may assure my esteemed friend from Molakalmuru that there is no question of nepotism, and favouritism that he fears. I hope after this explanation, the fear will be dispelled from his mind. I am sure that he only meant that when an authority wants some powers, there is a likelihood of that power being abused ; that authority will have to be

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exercised only under certain circumscribed limits. Sir, it is not as if I have been given a blank cheque. That temporary permit will have to be issued only when there is an application pending for permanent permit. Even when a temporary permit is issued, a clause is tagged on to it; it is provided under section 62: "It shall not mean that he will register his claim for the granting of a permanent permit." The grant of a temporary permit shall not be used as an argument in his favour for claiming a permanent permit. Therefore, it may attach any condition as it deems fit. This condition, I am sure, will be attached. No man will say that as a temporary permit is given in his name therefore he is entitled to claim a permanent one. I hope Sri Bheemappa Naik is convinced that there is no room for any kind of injustice. Any order passed under Indian Motor Vehicles Act is a judicial order. These authorities are quasi-judicial bodies. Any order passed by them will be challengeable in a court of law. Government have absolutely no original jurisdiction. I cannot straightaway take an application from "A" and say that I will give him a temporary permit . . .

Sri H. M. CHANNABASAPPA.—The Regional Transport Authority has jurisdiction for issuing a temporary permit.

Sri H. SIDDAVEERAPPA.—The R.T.A. has power. If you see the scheme of section 62—I wish to make it clear—I wish to clear certain doubts—that it is not an omnibus power. This power is given under certain circumstances to be sparingly used. The Hon'ble House may rest assured that nobody will be happier than I when it will be possible for me to exercise the least powers exerciseable.

Sri A. BHEEMAPPA NAIK.—Will not that circumstance fall under (a), (b) and (c). Please explain, whether for the purpose of seasonal business like Lakkavalli . . .

Sri H. SIDDAVEERAPPA.—Those were all circumstances narrated by the Hon'ble Member Sri Pattabhiraman, whom I thank for the elucidation of the point. Now the point is, these three clauses are there. (d) will be in addition to (a) (b) and (c).

Sri A. BHEEMAPPA NAIK.—That is what we do not want you to have.

Sri J. MOHAMED IMAM.—Sir, cannot this be taken up tomorrow?

Sri D. DEVARAJ URS (Hunsur).—Sir, there are so many controversies. We have to study and give our opinion. . .

Mr. SPEAKER.—All right, we will take it up tomorrow. Now the House will rise and meet at 12 O'clock tomorrow.

The House adjourned at Fourteen Minutes past Five of the Clock to meet again at Twelve of the Clock on Wednesday, the 6th March 1955.